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ABSTRACT

A hearing was held to review problems posed by realistic toy guns and consider a bill to require manufacturers of toy firearms to distinctively mark the toy firearms as toys and a bill to ban realistic toy guns from commerce. A consumer advocate compared real and toy versions of several guns to demonstrate the difficulty of distinguishing one from another. A representative of law enforcement officers described difficulties realistic toy guns present to police. The president of the Toy Manufacturers of America gave reasons for the organization's support for Senate Bill 1981, that calls for the use of blaze orange barrel plugs on toy guns to differentiate them from real weapons. An officer of the Daisy Manufacturing Company offered support for the Senate Bill. A gun collector urged that nonfiring antique replicas be excluded from the provisions of the bill. Testimony probed the question of the sufficiency of the Senate Bill's colorization requirement. Correspondence on the issues is included in the report. (RH)

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SAFETY HAZARDS OF TOY GUNS

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HEARING

BEFORE THE

SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND COMPETITIVENESS

OF THE

COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 3433 and H.R. 4732

BILLS TO REQUIRE MANUFACTURERS OF TOY FIREARMS TO DISTINCTIVELY MARK THEM AS "TOYS," TO BAN REALISTIC TOY GUNS FROM COMMERCE, AND FOR OTHER PURPOSES

AUGUST 11, 1988

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CONTENTS

	Page
Text of:	
H.R. 3433	5
H.R. 4732	7
Testimony of:	
Horowitz, David, consumer commentator, Channel 4 News, Burbank, California	10
Levine, Hon. Mel, a Representative in Congress from the State of California	2
Mullaney, Tim, National Legislative Committee, Fraternal Order of Police	17
Reid, Robert W., vice president, Marketing, Daisy Manufacturing Co	25
Robbins, Robert, National Legislative Committee, Fraternal Order of Police	17
Thomson, Douglas, president, Toy Manufacturers of America	21
Wayne, Michael, Wayne Enterprises	36
Material submitted for the record by:	
American Medical Association: letter to Chairman Florio, dated August 18, 1988	40
American Public Health Association: letter to Chairman Florio dated October 13, 1988	41
Bergen County (NJ) Sheriff's Office, statement	42
Gene Autry Western Heritage Museum, letter dated August 8, 1988 to Chairman Florio	53
Hobby Industry of America: letters dated August 3, 1988 to Chairman Florio and October 23, 1987 to Senator Dole	46
Parris Manufacturing Co.: letter to Chairman Florio dated August 5, 1988	49

SAFETY HAZARDS OF TOY GUNS

THURSDAY, AUGUST 11, 1988

HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND COMPETITIVENESS

Washington, DC.

The subcommittee met, pursuant to notice, at 10:43 a.m., in room 2322, Rayburn House Office Building, Hon. James J. Florio (chairman) presiding.

Mr. FLORIO. The subcommittee will kindly come to order.

We are expecting a few other members to join us at the conclusion of this vote, but out of respect for the schedules of our witnesses, we are going to commence this very important hearing.

Today the subcommittee will review the problems posed by realistic-looking toy guns. There are available to us here in the committee room replicas of weapons. As to whether they are real or toys is, in a sense, the subject of our hearing. The difficulty in distinguishing is something that has caused some very serious hands-on problems out in the field, particularly for law enforcement officers. Even experienced law enforcement officers often can't tell the difference between such look-alike weapons and the real thing.

Increasingly, realistic toy guns are being used to commit crimes. Indeed, one of our witnesses, consumer reporter David Horowitz, has been held hostage on the air by a man carrying a realistic toy gun. That is not all. Teenagers playing with realistic toy guns may appear to be threatening to law enforcement officials, who may understandably react in self-defense. The result may be an injured or dead teenager and traumatized police officers.

There have been several solutions proposed to deal with this problem. Some toy companies, such as the Daisy Manufacturing Company, have taken the initiative by marking the barrel of toy guns in a distinctive orange color, as shown by the Uzi. This marked Uzi toy machine gun is being packaged and marketed by manufacturers.

Others have proposed putting orange plugs in the toy gun's barrel. Still others have proposed banning realistic toy guns all together. While those solutions are offered, what is encouraging is that all seem to agree that action is necessary to distinguish toy guns from real guns. This hearing, of course, is to evaluate some of the proposals that we have in legislative form. Therefore, I am looking forward to the testimony of our witnesses, and our first witness is our very distinguished colleague from California, who is taking the legislative lead in the House on this issue, Congressman Mel Levine.

Congressman, we are pleased to have you here. As with all of our witnesses, formal prepared statements will be put into the record in their entirety and the witnesses may proceed in a summary fashion as they see fit.

STATEMENT OF HON. MEL LEVINE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LEVINE. Mr. Chairman, thank you very, very much, for your sensitivity and leadership on so many issues that are related to consumer protection. This has been a subject that you have championed in general in Congress, and I am honored to be able to testify before your subcommittee today. I want to thank you for calling this hearing.

I also very much appreciate David Horowitz' flying in from my hometown of Los Angeles to be at this hearing, and I am looking forward to his testimony later this morning.

I am here, as you indicated, Mr. Chairman, to testify on behalf of my legislation, H.R. 4732, which bans realistic toy guns, entitled the "Toy Gun Safety and Child Protection Act of 1988."

Mr. Chairman, I would like to begin my testimony by reading an excerpt of a letter written earlier this year to the editors of the Washington Post by a D.C. Metropolitan Police officer, Mr. David Daniel. The police officer, a 16-year veteran of the Force, was on duty one evening in Northeast Washington, an area which has, sadly, been riddled with drug trafficking and gang violence.

In the letter, Officer Daniels details an incident that I found chilling and unforgettable. This is how he described the ensuing sequence of events, and I quote from his letter. "It was dark. I was watching a typical group of young men standing in a circle in a courtyard in the 3500 block of J Street, N.E. More pushers, no doubt. Suddenly I saw the silhouette of an M-16 in one of the young men's hands. 'Charly, look out.' When I shouted that warning to my partners and drew down on the group, I saw that another one of them was holding a semi-automatic pistol in his hand."

"I looked at them down the barrel of my pitifully inferior service revolver, knowing that if I didn't get them first, I was dead. As I watched the slightest motion toward me, I heard it: 'Officer, they're just toys.' My knees were so weak I could hardly walk away."

"This group of young boys will never appreciate the gravity of what almost happened. I will never forget. I survived the moment. Will I tomorrow night, next week?" End of quote from Officer Daniels' letter to the Washington Post.

Mr. Chairman, this police officer's real life account serves to underscore the life or death nature of this issue. Both the lives of law enforcement officers and the lives of innocent children are at stake. The incredible realism of the toy weapons that are now being produced, already a cause for concern in the law enforcement community, should also be a cause for concern in this committee room, as it is, and in this Congress.

Realistic guns are a product that, although not dangerous in themselves, become dangerous when used in situations where they

are perceived to be real. Mr. Chairman, we all have memories of happy days spent playing "cowboys and Indians" or "cops and robbers" with our dime store cap or squirt guns. I played with them, and I am sure that many others in this room did as well.

Unfortunately, those are bygone days. We now live in a society where pre-teen children are involved in gang warfare and are carrying automatic weapons on the street. The potential for confusion and tragedy is just too great with the profusion of replica toy guns that are so similar in size, shape and color to such weapons as Uzis, M-16's, .45 caliber pistols, et cetera, that a trained officer of the law simply cannot make the distinction from a reasonable distance.

After hearing from law enforcement officials on both the national level and in my own district in southern California that the toy guns marking approach contained within my original bill, H.R. 3433, would not be a sufficient means of distinguishing toy guns from the real thing, I introduced my second bill, H.R. 4732, the bill before the subcommittee today.

Law enforcement argued that marking a toy gun by coloring the tip of the barrel or by inserting a colored plug into the end of the barrel, as Senator Dole's legislation proposes to do, would not be enough of a distinction. The shape and size of the toy weapon are equally important factors in determining its realism, especially at night.

In addition, Mr. Chairman, the law enforcement officials consistently raise the possibility of criminals imitating markings or colorings on real weapons. Some might wonder why a criminal would take the time to do such a thing. Well, if it caused the police officer to hesitate in a situation, then why not, from the criminal's point of view? We cannot and should not downplay law enforcement's fears. They above anyone else know what it is like to be staring down the barrel of a gun, and what it is like to have to make a split-second decision between shooting or holding fire.

Later in this hearing, Mr. Chairman, you will probably hear the toy manufacturers vociferously oppose a ban on toy guns and accuse my legislation of requiring one. The fact is, Mr. Chairman, nothing could be further from the truth. I am not attempting to prevent parents from buying toy guns for their children, nor am I saying that children shouldn't play with toy guns. My legislation simply bans a category of toy weapons that have become a threat to the innocent.

My legislation includes a provision which creates a "toy gun safety task force" whose purpose is to advise the Consumer Product Safety Commission in the development of a toy gun design standard. This task force will incorporate the input and interests of the toy industry, law enforcement, consumer organizations, as well as the medical community.

This legislation is meant to make child's play safer than it is at present. It is not meant to ban all toy guns, just those that are highly realistic imitations of modern civilian and military weapons that criminals are now using.

I can cite for you incident after incident which has involved a realistic-looking toy weapon. A 13-year old retarded boy in San Francisco was shot and killed just this last February when he pointed what appeared to be a .22 caliber pistol at two police offi-

cers who were patrolling the neighborhood after reports of gunfire. A mentally or impaired man, said to have the mentality of a child, was shot and seriously wounded when he brandished a toy 38-caliber revolver in a southern California fast-food restaurant just this last April.

Last summer, also in southern California, sheriffs chased down a car and drew their guns when they spotted a teenager pointing what appeared to be a .45 caliber pistol out the window and at the sheriff. The sheriffs found a realistic toy Uzi in the back seat of the car, as well.

The list of incidents goes on and on. On the flip side, statistics for New York City alone count 1,416 toy gun related criminal incidents in 1987. These numbers should clearly illustrate the urgency and poignancy of the situation facing us.

When an innocent person is mistaken for a criminal, it is the police officer who must live with the guilt of taking an innocent life. When a police officer hesitates, it may be his own life that is taken.

In closing, Mr. Chairman, I would like to emphasize the point that it is not the toy industry that needs protecting. We must protect those who cannot protect themselves: namely, our children. We must reduce the risk of confusion that our law enforcement officers are currently faced with.

Again, Mr. Chairman, I am very grateful to you for your leadership in calling this hearing, for your sensitivity on these issues. I know that we will hear from other witnesses today, David Horowitz, in particular, who will describe realistic-looking guns that are hardly, if at all, distinguishable from the real thing. When we sit here and look at the realistic-looking toy gun next to the real gun, there is simply no way for a law enforcement official or another person several feet away to tell the difference.

It is an urgent problem. It requires Federal legislation, Mr. Chairman. I appreciate your leadership on this issue. I am pleased to be able to present this testimony to you today.

[Text of H.R. 3433 and H.R. 4732 follows:]

I

100TH CONGRESS
1ST SESSION

H. R. 3433

To require manufacturers of toy firearms to distinctively mark the toy firearms as toys.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 1987

Mr. LEVINE of California introduced the following bill; which was referred to the Committee on Energy and Commerce

---

A BILL

To require manufacturers of toy firearms to distinctively mark the toy firearms as toys.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARKING OF TOY FIREARMS.

Each manufacturer of a firearm which is sold as a toy intended for use by children and which is not designed to function as a firearm shall, in accordance with regulations of the Consumer Product Safety Commission under section 2, distinctively mark the firearm in such a manner as to identify it as a toy.

SEC. 2. REGULATIONS.

Not later than 120 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall promulgate regulations prescribing the manner and form in which firearms are to be marked to comply with the requirement of section 1.

SEC. 3. ENFORCEMENT.

A firearm which is sold in interstate commerce and which is not marked as required by section 1 shall be considered to be a misbranded hazardous substance sold in violation of section 4(a) of the Federal Hazardous Substances Act (15 U.S.C. 1263(a)).

SEC. 4. EFFECTIVE DATE.

Sections 1 and 3 of this Act shall take effect 60 days after the date the regulations of the Consumer Product Safety Commission under section 2 take effect.

100TH CONGRESS
2D SESSION

H. R. 4732

To ban from commerce realistic toy guns, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 2, 1988

Mr. LEVINE of California (for himself, Mr. WAXMAN, Mr. OWENS of New York, Mr. GREEN, Mr. FOGLIETTA, Mr. SOLARZ, Mr. LEHMAN of Florida, Mr. DOWNEY of New York, Mrs. BOXER, Mr. BATES, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on Energy and Commerce

---

A BILL

To ban from commerce realistic toy guns, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Toy Gun Safety and Child Protection Act of 1988".

SEC. 2. BAN.

(a) BAN.—Any toy which is sold as a replica of a gun and which is not designed to function as a gun shall be con-

sidered a banned hazardous product subject to the Consumer Product Safety Act.

(b) DEFINITION.—For purposes of subsection (a), a toy is a replica of a gun if the toy is substantially similar to the shape and size of a gun manufactured after 1898.

(c) EFFECTIVE DATE.—This section shall take effect—

(1) upon the expiration of 180 days after the date of the enactment of this Act, or

(2) upon the effective date of regulations issued by the Consumer Product Safety Commission to implement this section,

whichever occurs first.

SEC. 3. TASK FORCE ON TOY GUN SAFETY.

In developing regulations to implement section 2, the Consumer Product Safety Commission shall establish a task force on toy gun safety. The task force shall include representatives of law enforcement agencies, of manufacturers of toys, and of consumer organizations.

Mr. FLORIO. Let me first of all thank you for the role that you played in bringing to this committee's attention this very serious problem, and the national leadership role you have played, as well. I think it is commendable to provide the Consumer Product Safety Commission the responsibility and the authority to utilize what expertise it can develop to make the distinctions between a toy and a real gun, a realistic or replica gun.

Can you give us some sense, if you have any developed expertise in this area, as to what it is that would be rolled into the whole equation of the types of things that would be done? Is it a matter exclusively of colors? Is it a matter of making such toys plastic, clear, see-through? Have you got some sense of the type of technologies that would be applied to distinguish this toy from a real gun?

Mr. LEVINE. Mr. Chairman, there are obviously a variety of approaches that have been looked at and that might be appropriate in terms of making such a distinction. The reason that I did not spell out in statute the very specific requirements or the design standards that might be necessary is that I would like to see a Federal design standard developed, but developed with some flexibility, and developed with the input of the people who are on the firing line with regard to this issue, particularly the law enforcement community.

Unfortunately, some of the suggestions that have been made thus far, and in particular the suggestion that is contained in legislation in the other body, that orange markings be the sole standard, and that, State and local governments be preempted from going further than the requirements in the Senate legislation, has been viewed by the law enforcement community as inadequate and potentially counterproductive.

I have spoken with law enforcement leadership in my own community, including the Los Angeles County Sheriff, and the Los Angeles City Police Chief, both of whom have indicated to me that law enforcement officials could be put at a very significant disadvantage, as I indicated in my opening testimony, if the only requirement were a marking requirement, because criminals themselves might decide to go that route.

So what I would like to see, Mr. Chairman, is input from the law enforcement community, from the consumer community, from the toy manufacturers themselves to the Consumer Product Safety Commission, which looked at the combination of colors, sizes and shapes. All of these need to be looked at. Then I would like to see a Federal design standard established so that you won't have 50 or 60 or 100 different design standards in different places. There ought to be one Federal design standard established after an evaluation of colors, sizes and shapes and any other input that the law enforcement community, toy manufacturers, consumer organizations and the medical community might provide to the Consumer Product Safety Commission.

Mr. FLORIO. What is the status? Is legislation pending in your State's legislature?

Mr. LEVINE. There are a variety of ordinances and bills pending in various parts of the country. Now, in my own State, Mr. Chairman, my home city, the City of Los Angeles, has enacted an ordinance which bans realistic-looking ,toy guns and leaves it for the

local law enforcement community to define what a realistic-looking toy gun will be.

Another city that I represent and that used to be my home city, the City of Santa Monica, has also enacted legislation banning realistic-looking toy guns, and another city in Los Angeles County, the City of Burbank, has enacted legislation banning realistic-looking toy guns.

Mr. FLORIO. Are there criminal penalties associated with these banning proposals?

Mr. LEVINE. I am not certain what the penalties are, Mr. Chairman. I don't know if it is just civil or if there are criminal penalties as well. The State of California is reviewing now and has under consideration a bill introduced by the majority leader of the State senate, State Senator David Roberti, that would ban realistic-looking toy guns. The State of New York also has under consideration legislation that would ban realistic-looking toy guns.

One of the important ingredients here, Mr. Chairman, is that in the Dole legislation in the Senate, one of the provisions in that bill, and frankly, the provision that law enforcement in my community and my State objects to more strongly than any other provision, is the preemption in that legislation that would stop local communities, both municipalities and States, from electing to ban realistic-looking toy guns if they so desire.

I would like to see a minimum Federal design standard established so you wouldn't have to burden the toy industry with a variety of different standards in different areas, but at the same time, I don't think it is appropriate for the Federal Government to come in from Washington and tell a jurisdiction the size of the City of Los Angeles with 3 million people or a jurisdiction the size of the City of Santa Monica with 90,000 people or jurisdictions of any other size that they can't go further and ban realistic-looking toy guns if the law enforcement community, the medical community, the consumer community in those jurisdictions convince the State legislatures or the city councils that the health and safety of those communities requires the banning of realistic-looking toy guns.

Mr. FLORIO. Let me thank you very much for your participation and your leadership in this area. This committee obviously will be working with you as the legislative process plays out on this very important subject.

Mr. LEVINE. Mr. Chairman, thank you very much.

Mr. FLORIO. Thank you.

We now move to our next witness, and we are very pleased to have him with us, one of the foremost if not the foremost consumer advocate in the country, Mr. David Horowitz, here from Channel 4 News in Burbank, California.

Mr. Horowitz.

STATEMENT OF DAVID HOROWITZ, CONSUMER COMMENTATOR, CHANNEL 4 NEWS, BURBANK, CA.

Mr. HOROWITZ. Thank you, Mr. Florio and members of the committee for inviting me here. I'm sitting here with a table full of guns which we'll take a look at more closely in a little bit. But I

think there are some things that have to be brought out in terms of the public, in terms of this issue.

And that is, what is a parent supposed to think about a toy gun these days? You know, Dad almost certainly grew up playing with cap pistols as a kid, and he's not out roaming the streets looking for someone to shoot. Still, you can't blame parents for being concerned when they read in the newspapers and they see on television that a child has been killed holding a toy gun in his hand.

The more realistic the gun is, the more dangerous it is to the person who is holding it. How is a police officer supposed to react to someone brandishing a very real looking weapon? Is it a kid playing with a squirt gun or a young gang member with an Uzi? What about a rival gang member or what about the nervous shopkeeper whose having this toy look-alike or replica pointed at them?

Are they going to know that it's a toy or are they more likely to shoot first and ask questions later? A child playing with a toy gun may be given the benefit of the doubt, but an adult with a realistic looking weapon is actually—is usually presumed to be armed and dangerous. That's certainly what I thought when a young man walked onto the set where I was doing my regular television news report at the NBC studios in Burbank last August 19 and put a gun in my back.

Now, I could see the gun and so could my colleagues on the news set, and there was no doubt in any of our minds that it was the real thing. The young man demanded that I read a long, rambling statement on the air. The statement confirmed my worst fears that the gunmen was irrational and totally unpredictable.

It was not until he surrendered to police that we realized the gun he held was a harmless, Daisy air pistol replica of a .45 caliber automatic. And it was a deadly situation for a lot of reasons. One is that the police might have shot the man and any one of us on the set might have been caught in the line of fire. It has happened before.

I've seen and handled a number of toy and replica guns from plastic squirt guns to detailed metal replicas that have the authentic look and feel of a real handgun or a carbine. I'm not sure what purpose these replicas serve, but I know that it's virtually impossible to tell them from their counterpart firearms at sight, and we are fortunate that the District of Columbia Police Department has provided us with a number of the real weapons, and I've brought the replicas.

And what I would like to do is, could we get a member of the D.C. Police Department to come up here, one of their experts? This is J.C. Smith-Haynie. Why don't we have you sit over here, J.C. J.C. happens to be someone who is very good with all sorts of firearms. I was watching her before the hearing.

Now, J.C., would you show me the MAC 10 machine pistol. This is the real MAC 10 machine pistol that J.C. is showing us. This is a replica of the MAC 10 machine pistol, with the—I mean in any detail, if a police officer were looking down the barrel of this weapon, would they use the ultimate force and shoot? I ask you that question.

Now, let's take a look at the—if we could bring over those .45's. The Colt government .45. Now, which one do you have? J.C. has

the toy pistol. This the real thing. Let's hold them up. These, by the way, are not loaded, Congressman Florio. We've made sure that all the ammunition——

Could you tell the difference? Could you tell the difference if this was being pointed at you? Let's go down a little further and let me pull out this Heckler and Koch machine gun. This Heckler and Koch machine gun loads like a real Heckler and Koch. If you pull the trigger, and I don't want to pull the trigger at anyone on the panel just in case, but if you pull the trigger, it will eject a shell. This is a replica.

If you were a police officer placed in a situation where this were pointed at you, what would you do? If we could bring down one of these assault weapons. This is an Entertech WH 88 caliber nine millimeter automatic. If a police officer were pointing this at you, would you know the difference? This is the real thing. In dim light, it would be virtually impossible.

Now, let's go and get the Uzi's, if we could, J.C. You have shown Congressman Florio the Uzi up there and I want J.C. to bring this one down. J.C. is holding a real nine millimeter Uzi which, as you know, is an Israeli assault rifle. This is a replica of one. If we were to hold these and point them at you, would you be able to tell the difference if you were a police officer? It would be virtually impossible.

And finally, if we could bring down those two .45's. This .45 that I'm going to show you, .45 caliber Smith and Wesson, nine millimeter rather, automatic, is being sold for use by 8-year-olds. It comes complete with a silencer. If you were a police officer faced with this replica, would you know the difference? This is the real thing. Look at the profile of this weapon. Virtually impossible.

Now, if you take this KG9, which is manufactured by the Daisy Manufacturing Company, and you put an orange sticker on the barrel of the gun and you paint the front of it orange, is that going to make it look any less realistic? Also as Congressman Levine said, this could also, falling in to the hands of a criminal, they could do the same thing and say, well, this is a toy. And how are the police going to know the difference?

That is not the answer. Thank you, J.C. I think I've made the point as far as these look-alikes are concerned.

Mr. FLORIO. I think the record should reflect that it's very difficult to distinguish the toy from the real weapon, and of course, the ideal circumstances we have in this room with bright lights and having our attention focused on it, are not going to be replicated out in the field.

Mr. HOROWITZ. Congressman Florio, it's still difficult here to do it. Now, I'm not saying that children shouldn't be allowed to play with squirt guns and cap pistols. That's something I think parents should decide for themselves. But if they want their children to have these toys, they should think carefully about the toy they buy and whether it might be mistaken for a real gun.

We've heard that guns don't kill people, people kill people. Well, toy guns don't kill people either, but they may end up dead nonetheless. On April 4, 1987, a San Bernadino County Sheriff's Deputy responded to the call of a man with a gun. Now, I just want to read

how this incident was reported and see the jeopardy that this police officer was placed in.

This is a quote. "The subject ran eastbound into the school complex. The Deputy brought a shotgun upright and peaked around the corner to take a look. The subject jumped out of the shadows about 20 feet away and yelled. The Deputy saw something in the man's hand. It was black and looked like an Israeli Desert Eagle .357 or .45 magnum automatic. Very heavy fire power. The subject crouched with a two-handed grip on the firearm, which was pointed at the Deputy. The Deputy racked a round into the shotgun and as he brought the shotgun forward, he saw a red flash from the suspect's gun.

As soon as that took place, the Deputy fired once in the direction of the flash. The subject bent forward, and the Deputy was better able to see the gun and he was sure that it was a Desert Eagle. The man started to bring the gun up again and the Deputy fired a second round. As he brought the shotgun from his hip to his shoulder, he took aim at the man's face, and at that time, the subject said, please, don't shoot me, it's just a laser gun."

The subject, a 14-year-old boy, fell dead to the ground. The Deputy stepped on his wrist and kicked the gun away, which turned out to be a laser tag gun, which is not as realistic looking as some of the replicas we see here. Congressman Levine told some other horror stories about a 5-year-old boy in Stanton, California that was shot by a Sheriff's Deputy who thought he had a revolver in his hand.

We had a situation where a 26-year-old man was nearly killed by police after he held up a drive-through restaurant with what reportedly was a submachine gun. After a high speed chase, it turned out to be a Rambo-style water gun. Fortunately, even though that was someone committing a crime, they weren't killed. They had a water gun. But you can imagine what the public thinks about things that they don't know.

In April of 1988, in Sacramento, a 5-year-old boy was almost killed by a Sheriff's Deputy who thought he had a nine millimeter Baretta semi-automatic pistol, when it turned out to be a water gun. Last week, in Los Angeles, 2 weeks ago, a suicidal man burst into Los Angeles Childrens Hospital threatening people with a pistol. He was shot to death.

Afterward, police found out that he was emotionally disturbed and the pistol that he had was nothing more than a toy. These cases point out that the toy manufacturers have achieved really something major in making their toy weapons as realistic as possible. Most of these cases are not occurring in Los Angeles. I happen to be a Los Angeles resident and Mel told you a little about the situation in New York, where in 1987, 1,416 toy guns were involved in criminal acts and were confiscated by the police.

They also removed 1,472 air guns and air pistols and 297 imitation guns from other suspects. In New York City, a number of tragic incidents have occurred when toy guns were mistaken for real firearms. And this is a statistic that is totally frightening. Since 1983, 18 people armed with toy guns have been killed in the city of New York by New York City policemen. And toy gun sales are rising at an enormous rate.

In 1987, $300 million in sales were recorded on these toy gun look-alikes and so forth, and three-fourths of all these toy guns sold are military style weapons like the ones that I have shown you here and readily available at your local toy, and in some cases sporting goods stores.

Now the question is, can we rely on the toy gun manufacturers, the air gun manufacturers, and the toy stores to voluntarily adopt safety standards? With very few exceptions, I think the answer is absolutely no. Holding up a liquor store with a toy gun is not usually considered armed robbery. Threatening someone with a replica weapon is not the same as assault with a deadly weapon. In California, it is a misdemeanor.

Nor is it against the law in most places to point a toy gun out a window of a car at another motorist. But as the number of such incidents involving look-alike guns has increased, cities and counties have moved to enact ordinances to ban the sale of these. But at the Federal level, the Government can do a lot. The Government could mandate a manufacturing standard requiring toy makers to incorporate color or design features on toy guns that would make it obvious at a glance that they are not real.

Now, a few manufacturers are doing that voluntarily. This is a great example. Who would ever mistake this water pistol, clear see-through plastic, for a real gun? Here' another one. This is a mini-Uzi water gun. This is a mini-Uzi. Now, I don't know how any police officer could ever mistake the brightly colored orange mini-Uzi water gun for the real thing, but they could mistake this one even though the barrel of it has a little red plug in it.

Here's another one that nobody would ever mistake for a real gun. This is what's called a splat gun. You know, there are people out there who play on the weekends like they're soldiers and they go around pretending that they're killing other people, and they shoot paint and other objects at them. No one would ever mistake this for the real thing.

And this is voluntarily being manufactured by a company in Phoenix, Arizona. And there are many other notable examples of toy manufacturers that are manufacturing toy guns that look like toys. We're not trying to outlaw toys. The U.S. Customs Service could also look closely at the replica and toy gun shipments that are coming into this country.

Guns like these, replicas, are being manufactured and shipped in from Japan and Italy at enormous rates, and nobody is stopping them from coming into this country. And the Postal Inspectors Office could examine the brisk mail ordering being done in phony and realistic looking weapons, particularly into cities and States which ban the sale of such toys.

In the State of California, there are 15 cities that banned toy guns. The State of California is also considering legislation that would do it. The Postal Service could be involved there.

Now, as I said, I'm not trying to take away a child's squirt gun or their cap pistol, and if adults want to collect authentic replicas of historical firearms, that's fine with me. But I think we have to be aware of the potential danger for misuse of such toys and replicas and the danger that brandishing such a toy may provoke a deadly response.

Now, scaring people with a toy gun may seem like fun, until someone points a real gun back and fires at you, and fatally wounds you. I'm now open to any questions you might want to ask.

Mr. FLORIO. Let me thank you for all the time and effort you've put into this very important subject. Your being here helps us to get a sense of the dimensions of the problem.

I guess my only question is under normal circumstances when we talk about products in commerce and the need to regulate those products, most people, myself included, generally advocate that we have uniform national standards that do in fact preempt the ability of local and State people to vary and to go off on to their own doing things for a number of reasons, not the least of which is the impediment to commerce.

Over and above that, it's because we do not want people to be taking different approaches than the standards. There shouldn't be one safety standard in New York and a different safety standard in California when we make the decision that there should be a safety standard.

Wouldn't it in some instances be preferable that we have a national safety standard, in this case a design standard and that there should be no capability to deviate from that standard at the local level or at the State level?

Mr. HOROWITZ. I think that would be a terrific idea but I think if you're going to draw up a standard like that, a standard like that would have to be drawn up not only with law enforcement people, with design people, but also in conjunction voluntarily with—I'm not talking about—I'm talking about a mandatory standard, but I think that the toy gun industry, the major manufacturers should also be called in to help, you know, draw up some kind of a standard because when you look at something like this, which cannot be mistaken in any way for anything but a toy—are you going to say should the standard be brightly colored orange toy look alikes that no one can mistake for the real thing?

You know, that's a question that is going to require—I think that will probably be the most difficult question to resolve, but I do think that a standard like that is needed to address the problem all over the United States because there are now about six States that are considering toy gun legislation including as you say, California and New York and Georgia and your State of New Jersey with an amendment to the Storter gun law and I think it is important that the Federal Government take some interest and take some lead in this and also work in conjunction with the Consumer Product Safety Commission which to this point has done absolutely nothing in this area.

In fact, they're saying they don't want to get involved in this area. I think that is something that has to be done with those agencies, with industry and also with law enforcement.

Mr. FLORIO. I think we all know this is a fairly contentious issue. I would think the good faith and legitimate concerns of toy gun manufacturers would largely be the absence of certainty as to what it is they're supposed to do. If we follow the suggestions that you made, the suggestions that Mr. Levine has made, if we have good protective standards put into effect by an appropriate agency that had a serious commitment to enforcing them and everyone would

be required to adhere to them, at that point I suspect the argument about the problems associated with preemption might very well disappear.

We might be able to go forward in a way that would deal with the legitimate concerns, the commercial concerns, but more importantly, the public safety concerns as well.

Mr. HOROWITZ. What we have now, Mr. Florio, is the toy gun manufacturers are scrambling. Companies and I don't want to single out Daisy because they're a very reputable, old-line company, but they're scrambling around to try to sort of circumvent the issue by doing something in order to try to continue to sell these things because, you know, it is an economic thing as well as anything else. I mean they are entitled to stay in business but something like this does not solve the problem.

I think people at manufacturing companies like that would like to have the leadership of groups like yours, Congressman Florio, to be able to give them some guidance because these—I'm not saying these companies should go out of business.

Mr. FLORIO. I think it's very important to acknowledge as we do in so many other areas that the certainty of good, strong regulations, whether they be environmental protection regulations or consumer protection regulations, work to the interest of people in industry.

What you're expressing now is the fact that absent certainty, there is the natural competition for bigger market shares and therefore, if someone tries to do the right thing, however inadequate the right thing effort might be, they are in competition with those who have no interest whatsoever in doing the right thing and they find themselves at a competitive disadvantage.

Spelling out with certainty what it is that's required to be done takes the benefit and the profit out of doing less than the responsible actions.

Mr. HOROWITZ. But these toy gun manufacturers have to also be made aware of the fact that this is a public safety issue. I mean it is an economic issue to them but it is a public safety issue that is going to have to be dealt with legislatively. It cannot be dealt with on a voluntary basis. It has to be dealt with where there is—where there is legislation on the books and guidance from some of the consumer protection agencies and U.S. Government particularly the Consumer Product Safety Commission being involved in it.

Mr. FLORIO. Thank you very much. We will look forward to our last panel of witnesses which of course represents the manufacturers and look forward to their input as well. Let me thank you very much for your help.

Mr. HOROWITZ. Thank you, Mr. Florio.

Mr. FLORIO. We're now pleased to have Sergeant Tim Mullaney of the National Legislative Committee of the Fraternal Order of Police, FOP.

Mr. HOROWITZ. Excuse me, Congressman Florio. Before I leave, could we thank the D.C. Police Department, all their firearms experts for providing us with these real weapons. They did it at—it was at great, really, it took them a lot of work to do this and they're at the back of the room and I'd like them to stand up and——

Mr. FLORIO. Let the record reflect that the committee is greatly in debt to the District Police Department for its assistance here today and we thank you very much.

Mr. HOROWITZ. I'm going to let them take their real guns back as I get my toys.

Mr. FLORIO. Sergeant Mullaney, we are very pleased to have you with us. We have no difficulties, if you'd like your colleague to come forward.

Mr. MULLANEY. Yes, I was going to suggest that.

Mr. FLORIO. That would be fine. We would be pleased to have him with us and for the record we would like you to introduce him.

Mr. MULLANEY. His name is Robert Robbins and he's from the great State of New Jersey.

Mr. FLORIO. We are pleased to have Bob with us. He has been someone who has been of particular assistance to me over the years in terms of providing me with guidance and counsel on matters of interest in the area of law enforcement. Please proceed.

STATEMENT OF TIM MULLANEY, NATIONAL LEGISLATIVE COMMITTEE, FRATERNAL ORDER OF POLICE, ACCOMPANIED BY ROBERT ROBBINS

Mr. MULLANEY. On behalf of the National Lodge of Fraternal Order of Police which represents approximately 200,000 law enforcement officers across the country, I would like to thank the committee for giving us the opportunity to address the issue of toy firearms.

It is gratifying to know that the Congress has recognized the problem of toy firearms and the effects they are having across the country. These hearings are the necessary first steps in trying to identify ways in which to minimize the dangers that have arisen regarding realistic toy firearms.

We only have looked at the media to see the illustrations of where realistic toy firearms have not only been used in criminal acts, but have contributed to the deaths of juveniles across the country.

Congress has before it several pieces of legislation, H.R. 3433, S. 1981 and most recently, H.R. 4732. While we agree with the concept of H.R. 3433 which very simply mandates that toy firearms will be distinctly marked in such a manner that it can be distinguished as a toy, the regulations would be set up and implemented by the Consumer Product Safety Commission no later than 120 days after enactment.

Unfortunately, identifying the problem is only the first step. The real problem and the real work before us is trying to find a realistic manner in which we can mark these realistic toy firearms. In H.R. 3433, the manner in which these toy firearms is to be marked is not set forth but left up to the discretion of the Consumer Product Safety Commission.

It's our feeling that just rather than handing this matter over to the Consumer Product Safety Commission, it would be wiser to appoint a study group, a task force, whatever you want to call it, with law enforcement participation, which could further research the matter and return with input to this committee for further action.

We think it would also show—legislative intent would be clearer and guidance could be given to the Consumer Product Safety Commission if that's the route that the committee decides it should go. It is also our desire that law enforcement be heavily involved in any study since they are more often than not the ones that are going to be confronted with the dilemma of realistic looking firearms.

A split second hesitation on the part of a law enforcement officer in trying to identify whether a weapon being brandished is either real or whether or not it is a realistic toy firearm could result in serious consequences not only for that officer but the person brandishing the weapon.

Under S. 1981, it just requires that a blaze orange plug be inserted in the barrel of the weapon at least six millimeters from the muzzle end of the weapon. This would require law enforcement officer to wait until they're looking down the muzzle—the barrel of a weapon before he could determine whether it is realistic or not.

I put it to you that that is just not acceptable. You saw today that in the type of lighting we have right now, how hard it is to tell whether or not a weapon is realistic or not. To expect a law enforcement officer under some very adverse conditions to be able to distinguish whether or not it has an orange plug in it I think is just totally unacceptable.

Under H.R. 4732 which follows the concept of H.R. 3433, it has a very important addition to it of establishing a task force to determine and recommend how toy firearms should be marked. It is especially important and significant to us that representatives of law enforcement be included. Although the practical application of marking toy firearms in and of itself would seem to be a very simple task, we don't think so.

We must take into account that the criminal element will be looking at regulations on how to mark toy firearms and duplicating this procedure if possible in modifying real weapons. It is a fact that the criminal element will take advantage of any method possible to give an edge against law enforcement.

It must be stressed that no piece of legislation dealing with this issue should be thought of as an answer but more realistically, a tool to try to manage the problem of realistic toy firearms. To get on H.R. 4732, there are three distinct problems that we have with the legislation or rather questioned, the first being the Fraternal Order of Police wants to be involved in this process. Unfortunately, the language in the bill specifically states law enforcement agencies which would seem to preclude our involvement on any task force.

The second thing is with such a difficult task of trying to determine how to identify these weapons, with the task force being set up and you've got several different groups put together trying to come to a happy medium, we're wondering whether or not 180 days is sufficient time.

The problem arises that at the end of that 180 days, what happens if that task force has not come up with a suitable language or suitable recommendations? Does the Consumer Product Safety Commission then take it upon itself to do what they wish?

The third question is once the task force does come to its conclusion and make the recommendation, how binding are those recommendations on the Consumer Product Safety Commission. I think we've heard earlier in your press conference that that Commission isn't tremendously thrilled with having this prospect thrust upon them and it is a serious issue and it's one that we don't want to see just be pressed aside.

Myself—I'm a street cop with 16 years experience. I'm not a professional lobbyist. We represent the Fraternal Order of Police but my full-time job is that of a law enforcement officer. I really am concerned with the piece of legislation that has been attached to the Undetectable Handgun Bill that closely mirrors Senate 1981—that being an orange plug placed in the end of a weapon.

It looks like the burden of identifying these weapons is going to be left on the police officer in the field and I can't stress strongly enough at this time of how difficult a situation that puts us in. While we realize that it's a very serious matter, if we go on the course that we seem to be going with what's been attached to the Undetectable Handgun Bill, the onus and the burden is on the officer and if the law enforcement community accepts that responsibility and says OK gentleman, we're going to hesitate, I fear that there will be a lot more lives lost and there will be a lot more situations in which innocent lives are being lost where officers are going to confront people and rather than stepping forward and going to have to step back until they get a second look and that is a dangerous precedent that we don't want to see happen and that's why the Fraternal Order of Police is committing itself fully to cooperating in any way, shape or form they can in seeing that this problem is dealt with and dealt with in a manner that both law enforcement can be comfortable with as well as the consumer.

I want to thank you.

Mr. FLORIO. Let me thank you for your expert testimony in this whole area. I guess the part, as I've indicated in my questions to the previous witness, that causes the most difficulty for me is this whole question of preemption versus non-preemption.

From the standpoint of the hands-on law enforcement official in community X, I just think that if we're going to deal with this on a town-by-town basis, or even a State-by-State basis, you've got to incorporate almost into your training manuals memorization of what the adjacent town requires by way of markings as contrasted with the markings that you may require in your town.

I'm a little concerned about that and I guess I'm also aware of the sense now that the agency, or the agencies, that are supposed to be in charge are not particularly committed to dealing in an aggressive way with almost any aspect of product safety.

And that leads some to say, well, we certainly don't want inadequate regulations to be out there and have them preempt the capability of towns or States to do a better job of regulating. And I think I'm sensitive to that understanding.

But the ideal, and I think we can work a little bit more towards having the idea, is to have not inadequate regulations, but adequate regulations that are arrived at as a result of input from all of the interested people, certainly the law enforcement organiza-

tions, such as the type that you represent, having that as the standard.

Then we can deal with the problem on a nationwide basis, and we don't have police officers trying to refresh their recollection as to what are the neighboring standards in local towns. This concern that I have, is it something that is a legitimate concern if we have town-by-town regulatory standards for markings and things of that sort?

Mr. MULLANEY. Well, we really haven't got into preemption and studied it, but off the top of my head, the problem you have is you've got law enforcement agencies that are not just taking care of one town. You've got county police, Sheriff departments, State police. And in a small community or a small rural setting, you could have 10, 15 towns in a county that a county police department could deal with. And it would seem to be very cumbersome to be able to try to memorize or try to figure out whose got what regulations and how they should be dealt with.

To me, I think the important aspect is if the Federal Government is going to be out front on this issue, which I think they should be, that they should strive to have a good standard and a standard that everyone can live with, but which is not so weak as that it really requires someone from the local jurisdictions or States to step in and fill the gap.

And I think that's the key that the task force and the Consumer Products Safety Commission, if that's the route that it's going to go, have to really sit down and work at it. And you can't have a weak sister in it, and I'm saying that's why my question about—you've got a task force, which I think is a good idea, where the whole strata of everyone involved is going to have some input.

But if that Commission can disregard that task force, then you're back to square one, that maybe you don't even need the task force if that's what it's going to do. And we'd be against that. We think that it needs to be studied and the task force, with law enforcement influence, is the route to go.

Mr. FLORIO. To the next panel we will direct questions as to what should be the appropriate hammer. That is to say if there are regulations and some in industry, perhaps competitors who don't comply, or in fact the agency that is charged with coming up with regulations fails to do so, what would be the appropriate sanction to induce action? What would induce action by competitors who choose to risk not complying with regulations that might be adopted that would do the job of trying to protect people, and law enforcement officers in particular?

Let me express my appreciation to both of you for your participation and say that whatever action this Congress chooses to take, it will be my particular position that the people in the field, in the various law enforcement organizations, have to be intimately involved to make sure a realistic response occurs. You folks, of course, are the people that can tell us best what's realistic and what's not.

Mr. MULLANEY. Well, thank you for letting us appear. And I'd also like to thank Congressman Levine, who knowing some of the fears we had, put in a new bill, after his old one we expressed some problems with, in addressing the task force issue. I think that's the

type of leadership both that you and Congressman Levine are showing that's going to help, hopefully, solve this problem.

Mr. FLORIO. And Bob, I'll express my congratulations and anticipation of your ascendancy to the position of State leader in your organization in New Jersey.

Mr. ROBBINS. Thank you, sir. Appreciate the opportunity to speak today.

Mr. FLORIO. We're now pleased to move to our next panel of witnesses, which is made up of, and we'd like the witnesses to come forward, Mr. Douglas Thomson, president of the Toy Manufacturers of America, Mr. Robert Reid, vice president of Marketing, Daisy Manufacturing Company, and Mr. Michael Wayne of Wayne Enterprises of Beverly Hills, California.

Gentlemen, we are pleased to have you here today. As with all witnesses, the testimony that you have will be put into the record in its entirety. You may feel free to proceed in a summary fashion. And Mr. Thompson, we'd be happy to hear from you.

STATEMENTS OF DOUGLAS THOMSON, PRESIDENT, TOY MANUFACTURERS OF AMERICA; ROBERT W. REID, VICE PRESIDENT, MARKETING, DAISY MANUFACTURING CO.; AND MICHAEL WAYNE, WAYNE ENTERPRISES

Mr. THOMSON. Mr. Chairman, thank you very much. Speaking for the entire Toy Manufacturers of America, we appreciate the opportunity to come and voice our opinions and hopefully contribute constructively to an issue which we share with you and Congressman Levine and certainly with Sgt. Mullaney.

The Toy Manufacturers of America represents practically all of the major toys, toy guns, squirt guns, cap pistols and things of that sort. Not the authentic guns or the replicas. We represent them and we have found that over a period of time we've found that the people are most receptive to trying to come up with products and put into the marketplace products which are acceptable to the public, acceptable to the legislatures, certainly acceptable to the law enforcement people.

Prior to the time that all these legislative acts started, we had a series of communications with all the manufacturers and with major retailers to try to respond to what appeared to be incidents that were bothering the marketplace, bothering the citizens, and bothering ourselves. We initiated what we thought was a, and we still do think, is a reasonable approach to taking care of the problem. The colorization of the guns.

I'd like to keep in mind, too, if I may, I'd like to clarify something that has been said here. The questions have been asked, but I don't think answered fully. Most, almost all, I'm not saying everyone, but almost every situation that we've been able to track around the country has been a situation where an adult is brandishing a weapon at a police officer in some sort of abhorrent behavior. This has happened as long as I can remember.

I come from the Bronx and I remember them holding up the bakery with the Lone Ranger's pistol a long time ago. It's happened for a long time. I don't know how we're going to satisfy that kind of a situation of people, either on alcohol or drugs or deranged

in some way, taking a weapon of any sort and behaving in that way.

We'll try to do everything we possibly can to be sure that the weapon, toy, looks like a toy. And we thought we did by going through the colorization that has been discussed here and which has been shown. We support the Dole bill. We support the Dole bill for two reasons, I think.

First of all, it is a thoughtful considered approach which had the input of not only manufacturers, but legislators and law enforcement people, too, as a reasonable approach to taking care of this problem.

Second, we're interested in preemption and for a very practical reason. That if we have 20, or 30, or more different ordinances or State laws, there's no practical way to do business. You can't do business that way. We've seen a growth of these around the country as legislators and other people see an opportunity to present an issue to the public and get a great deal of attention on it because it is a childrens issue.

And we simply don't know of any way to satisfy the marketplace in any way if we have a number of different ordinances and laws. It has nothing to do with the identification by the police. It's just a simple practical problem of not being able to manufacture and ship in interstate commerce.

Another point that I think that I would like to suggest, Mr. Chairman, is that the question of realism gets to be the most difficult question. We heard the TV commentator say, well, he's not thinking about squirt guns. He's not talking about cap pistols. But to the person being threatened with a weapon pointed at them, almost anything, depending upon the, what do the policemen call them, the perpetrator's action and appearance, they're going to consider it a realistic gun.

I assure you that if I walk out of here and somebody points the Lone Ranger's cap pistol at me and threatens me and wants my wallet, I'm going to consider it a real weapon. I don't care what color it is or how it looks.

So I think that's the problem and that's been the age-old problem of trying to solve this issue when we've heard about criminals taking toy guns and trying to hold people up. The task force, I think, that's been suggested would struggle with that long and hard.

I think banning products, which was one suggestion, is one that perhaps doesn't require that kind of Federal action on a situation which—almost every case, as I said before, has been an adult who has been bent on mischief. And we're, I think by banning the childrens products in order to take care of people who are in deranged States is certainly not a Federal answer to this.

We also have considerable background in this. The country of Italy or the country of Spain both put in the so-called red plug legislation back in 1975 and 1978, and we know of no incidents in the interim period of time in which criminals have used these weapons for mischief.

I think, too, that the whole issue in the marketplace is one that, on a voluntary basis, I believe can be—the issue can be achieved. We've suggested and strongly support the issue of the red plugs.

But many of the industry, as the TV commentator indicated, have gone much further.

Some of the products that he was showing—show you catalogues. This is a very competitive marketplace. Each of the manufacturers want to get a product into the marketplace which is going to be accepted by, first, the retailer. If the retailer doesn't accept them, then it's not going to go anywhere.

Second, it's a competitive situation of trying to get something that looks better, jazzier, more effective, something that children will be interested in. And so as a result of that, a good number of the manufacturers have already moved into this direction.

So I suggest to you, Mr. Chairman, and be happy to take some questions on it. I have a more detailed testimony put into the record, please, but I suggest to you that, first of all, I think that the Dole bill is a well thought out bill, one that addresses the issue, one that gives the preemption which I think is most important. But at the same time, speaking for the industry, we are certainly open to any suggestions that somebody has to improve the situation and still keep us in the marketplace because we think we legitimately belong in the marketplace. Thank you.

[The prepared statement of Mr. Thomson follows:]

STATEMENT OF DOUGLAS THOMSON

Mr. Chairman, my name is Douglas Thomson. I am the President of the Toy Manufacturers of America, the trade association whose members account for over 90 percent of the toy and game products found on retailers shelves in the United States. Most of the major toy gun manufacturers and importers are members of the TMA. In addition, I am the President of the International Committee of Toy Industries, an umbrella organization made up of national toy associations from fifteen major toy manufacturing or marketing countries.

We appreciate the opportunity to present our views on the issue of toy guns. These products have been in the hands of American youngsters since colonial days and I daresay that everyone in this room played with Davy Crockett's rifle, the Lone Ranger's six-gun, Dick Tracy's pistol or shot his or her friends with water guns. And I feel safe in saying that those of us with children bought similar products for our children and perceived no harm in our or their play. Toy guns represent not a large part of the toy business—somewhat under 1 percent in dollar sales. However, to some firms who have been in the business for many years, the manufacture and sale of these playthings are most important and support the employment of many Americans. The toy industry is most desirous of producing and selling products which the public and authorities perceive to be safe and proper for the children. The fact that toy guns have been marketed for so many years suggests that the public has accepted them as reasonable playthings.

Let me say at the outset that the toy industry vigorously opposes a ban of toy guns. However, we support the principle of identifying marks to insure that the item is clearly identified as a toy. In fact, a year ago, when we first heard of incidents involving these items, we contacted the major manufacturers and importers to urge the use of colors to differentiate the products and found a receptive group who initiated changes immediately. We support the Dole Bill which requires the addition of color on all realistic toy guns and urge this committee to embrace this bill, as well. At this point, it is my judgment that all major toy gun manufacturers are already conforming, as a minimum, to the Dole Bill specifications and many have extended far further with the use of bright colors.

I would like to address four points which, to me, are practical issues to consider by those concerned with this legislation:

1. The issue of "realistic": As far back as I can remember as a youngster some stupid soul would try to hold up the bakery, cigar or liquor store with a cap pistol. To the person being held up, the gun looked very realistic. If someone points anything looking like a weapon at me in the streets of Los Angeles or Newark, I am not about to stand there and puzzle over whether it is real or a toy. The rash of Federal, State and local legislation all call for something to be done about "realistic" guns.

Who is going to determine which are realistic? The local police who have their hands full on real crime? The retailers? The manufacturers? We can probably do the best job on a voluntary basis, but to ban "realistic" guns calls for judgments I do not think the law enforcement people really want. Let me remind you that the first California incident, which received so many headlines, was not a toy gun simulating a criminal's weapon, but a futuristic "laser space gun". However, the clearly identifiable red markings the industry is applying without defined legislation has already substantially diminished the problem. This technique has been widely circulated through our trade press and TMA bulletins and at our Toy Fair in February, and I found no displays lacking the red or orange markings. Too, in our June meeting of the International Committee of Toy Industries, this topic was prominently discussed on our agenda and we secured unanimous approval from the 15-member international toy trade associations.

2. The issue of how serious is this problem: Certainly we respect the law enforcement agencies and wish to do everything to support their most difficult job in a society which has more crime than can be handled by an overburdened judicial system. But I suggest that in virtually every case which we have tracked, the police have been called to the scene by citizens and found an individual bent on aberrant behavior—usually with a mental, drug or alcoholic problem. I believe the serious problem here is the fact that the police are so often criticized by the press and politicians. It seems to me that any individual who waves a weapon (real or toy) at a policeman buys his own fate.

We have also been treated to an oft repeated tape of a TV commentator with a deranged person holding a gun to his head demanding he read some rambling statement. What if the man had been holding a baseball bat threatening to crush him or a kitchen knife. Would we be talking about bans on those common articles?

The serious aspects of these incidents, then, I subscribe, are not the youngsters toy guns. They are:

—The troubled minds of too many of our citizens.

—The threats to our safety due to the apparent inability of our judicial system to control crime.

—The speed in which the media and political types criticize our police for doing their jobs well.

I do not want to suggest that this is not a problem which needs to be addressed. However, in this Nation of 150 million people there have been relatively few incidents (albeit well publicized by our headline hunting press) and almost all, as I have stated have been caused by adults bent on mischief. Compared to so many serious problems which need to be addressed, toy guns have certainly received an undue amount of attention.

3. The issue of red/orange plugs: As I have mentioned, we support the Dole Bill calling for colorization to define the product as a toy. Our reasoning is this:

—It is a practical and proven method which allows manufacturers to go further in a competitive way to further enhance their products for consumer acceptance.

—It is pre-emptive. If we must have legislation, it is important that we not have dozens of different State and local regulations which are conflicting and prevent interstate commerce.

—Some have suggested that the Dole Bill is inadequate since criminals might paint real guns to look like toys. First of all, we have some experience on this. Italy and Spain have similar laws going back to 1975 and 1978 respectively. To the best of our knowledge, we do not know of any incidents where criminals have taken real guns and painted the muzzle red in that 11-year span. Second, it defies any logic to understand why a criminal, bent on threatening someone, would want to make his weapon less of a threat.

—The industry is essentially already in compliance with the Dole Bill.

4. The issue of real guns: Forget for a moment that I represent the toy industry. As a citizen, I find it somewhat puzzling that my Congress is seriously considering banning toy guns when the problem of real handguns in this country is practically overwhelming us. Much of this thrust has come from California where the stories of street gang warfare, 12 and 13 year old youngsters guarding their crack-earned money with handguns and regular killings are in the news daily. New Jersey has the same problem, as does my home State of Connecticut and New York where the TMA is headquartered. Certainly this committee must see the irony of the Dole Bill being an amendment to a bill approving (though putting controls on) the manufacture of detectable plastic handguns. Mr. Horowitz and Congressman Levine have cited to me constitutional reasons for not addressing the real gun problem. It has to be Disney-world to say that we would ban a plaything and not take action on a lethal weapon.

The Toy Manufacturers of America urge this committee and the House of Representatives to pass the Dole Bill.

Thank you for the opportunity to make our views heard.

Mr. FLORIO. Thank you very much for your very, very succinct and pointed remarks. Mr. Reid.

STATEMENT OF ROBERT W. REID

Mr. REID. Thank you very much, Mr. Chairman. I am Robert W. Reid, Vice President, Marketing and I'm here on behalf of Daisy Manufacturing Company of Rogers, Arkansas. For those of you that may not know Daisy, Daisy is a 102 year old company with consumer product offerings in three entirely different markets.

The first is non-projectile firing toy guns. The second is air guns, which is otherwise knows as BB guns and pellet guns. And the third market that we serve is .22 caliber rim fire firearm rifles.

Mr. FLORIO. Mr. Reid, just to help with the trivia discussion a number of the members had yesterday when we heard that you were coming, there was some representation that Red Rider had something to do with Daisy and someone couldn't remember—was Red Rider a marketing mechanism for selling Daisy rifles?

Mr. REID. Yes, it is. Red Rider is a 50 year old character in the marketplace. This is our 50th anniversary of the Red Rider, as a matter of fact, sir.

Mr. FLORIO. Thank you very much. I won, by the way.

Mr. REID. Pardon me?

Mr. FLORIO. I won the contest, and I even knew that Little Beaver was his sidekick.

Mr. REID. That's a BB gun. It is our understanding that the issues being discussed before this committee deal with non-projectile firing replica toy guns and the dangers that such products may pose to both children and law enforcement officials.

Since Daisy has adopted a very specific position very early on with this issue, and since we have backed that position with a variety of actions, we are quite honored to be asked to testify here today. With regard to the issues at hand, you probably already know that Daisy Manufacturing Company was one of the first, if not the first, toy gun company to recognize the potential accidents that could happen and the potential dangers that could be associated with the misuse of detailed replica toy guns in this country.

We felt that this was particularly true, as Mr. Horowitz has said, of the flat black, fully automatic, paramilitary guns that seem to be the rage of both the TV shows and the movies that Hollywood is producing these days. As a result of our concerns, in August of 1987, a copy of which is in my official testimony, we announced our plan to, as we called it, dereplicate our entire line of military toy guns by using a combination of international orange markings on the barrel of our toy guns and affixing international orange markings on the side of those toy guns to help ensure that the products were recognized as toys rather than actual guns.

In subsequent months, we went even further by not only extending are dereplication program to our non-military toy guns, but also completely changing the colors of some models and eliminating some models from our product offering altogether. All of this, I

point out, was done both voluntarily and unilaterally prior to any legislation attempting to remedy this particular situation.

Reactions to Daisy's decision was both instantaneous and for the most part quite positive. The National Safety Council named Daisy as recipient of its distinguished service to safety award, its highest award. It is our understanding that in doing so the National Safety Council broke a 20 year tradition in naming only non-profit organizations as recipients of that award.

From law enforcement, Daisy received a special letter of commendation, a copy of which has been attached to my testimony, from Mr. Jerald Vaughn, who is the Executive Director of the International Association of Chiefs of Police. In that letter, Mr. Vaughn not only commended Daisy's toy gun dereplication program, but stated strong support for Daisy's commitment to safety and expressed the hope that our competitors would follow suit with similar changes in their company policies.

From Congress itself came support for the actions that we had taken. According to the Congressional Record on October 16, 1987, Congressman Levine himself identified Daisy as one toy gun company who had begun adding distinctive markings to its products. Congressman Levine followed with additional comments at a press conference held on November 24, when he commented that Daisy, that both Daisy and toy retailing giant, Toys R Us, when he commended us for taking the lead in solving this problem.

His concluding remarks included, and I quote, "the action of Daisy and Toys R Us exemplify corporate responsibility. I urge other toy gun manufacturers and retailers to follow their lead." Apparently, someone out there was listening because most gratifying of all was the very positive reaction that Daisy's decision received from both its wholesale and retail customers and its competitors in the toy gun field.

Almost instantly, virtually all members of the toy and hobby gun commercial community began the process of evaluating their product offerings and dereplicating in their own fashion, the sum total of which was to make toys look like toys again. Putting teeth into these actions, wholesale and retail customers began insisting that their products, that the products that they purchase from us for resale, were dereplicated.

Quite frankly, by the time the New York Toy Fair rolled around in February of this year, the one-to-one scale detailed replica toy gun was virtually a thing in the past. Now, does all of this mean that a one-to-one scale detailed replica toy gun has been completely eliminated?

No, it does not. We are sure that there are some inventories in some warehouses belong to some companies that might still be available. There may also be some non-dereplicated toy guns on retail shelves that are yet to be sold, but the number is dwindling.

There might also be a rogue manufacturer or two offshore who was willing to manufacturer a dereplicated toy gun, but in our opinion, and we were called here for our opinion, those manufacturers will have an extremely difficult time finding a retail or wholesale customer in this country who was willing to buy that product.

So what does all this mean? Well, from Daisy's perspective, it means two things. Number one, in terms of actual impact, legislation which bans the manufacture and sale of detailed replica toy guns is not needed. Market forces and public attitude have already set in motion what legislation of this nature is intended to do, and that is to protect consumers and law enforcement officials and to make toys look like toys again.

Wander through the aisles of any toy store today and see if you don't come to the same conclusion yourself. Number two, in terms of providing a standard which can be effectively enforced, the mechanism is already in place through the language included in Senate Bill 1981, introduced by Senator Dole, which requires blaze orange barrel plugs on toy guns to clearly distinguish toy guns from real guns.

This legislation, which unanimously passed the Senate as part of Senator Metzenbaum's plastic gun bill, now awaits action in the House of Representatives. Granted, some law enforcement officials believe that such actions can be too easily circumvented by criminals who may choose to make their real guns look like a toy.

However, in the 9 months since dereplicated toy guns have been in the marketplace, this has not proven to be the case. As a matter of fact, to our knowledge, there has not been one single reported incident or accident or criminal misuse with a dereplicated toy gun since the industry began its dereplication process in January of this year.

Further, case histories in both Spain and Italy, both of which enacted similar legislation over a decade ago, indicate that such situations have not evolved in either of those countries. It also appears to us that to make a real gun look like a toy gun scenario appears to be absurd at best. Granted, Mr. Chairman, we're not criminals.

It seems to us that a criminal who wants to commit his crime through the intimidating use of a gun would do very little for his cause if he made his real gun look less intimidating by making it look like a toy. That just doesn't make good sense. Granted, we are not criminals and granted anything is liable to happen.

As a general rule, however, we feel that the case history of what has happened here in the United States during the past 9 months, as well as the case histories of both Spain and Italy over the past decade, as well as the use of simple logic, all tend to at least minimize the impact of this often used criticism of blaze orange markings for toy guns.

In conclusion, I very seriously doubt that there is anyone in this room who does not wholeheartedly support the objectives of protecting children and policemen and making toys look like toys again. The real question, in our opinion, is just what is needed now to satisfy those objectives.

Much has happened in the past 9 months. Again, in a statement of November 24, Congressman Levine said, and I quote, "I wish that Federal legislation were not necessary. I would much prefer that the market police itself in this matter."

That appears to have been done. That being the case, it appears that the use of a product ban is neither needed nor desirable now. What is needed is a uniform standard that all can follow. That appears to be in place through the requirements established in

Senate Bill 1981. As a result, Daisy urges this subcommittee to move in the direction of Senate Bill 1981 rather than toward placing additional restrictions on an industry that appears to have done a very respectable job of restricting itself already.

Thank you very much.

[Attachments to Mr. Reid's prepared statement follow:]

NEWS RELEASE THE NEW Daisy

For release Monday, August 24, 1987

DAISY SAYS TOY GUNS WILL NEVER BE THE SAME!

Rogers, AR -- Daisy Manufacturing Company announced today that it will begin adding bold international orange markings to its line of full-scale toy replicas of military firearms. The purpose of the markings is to clearly identify the guns as toys.

Daisy, best known as the world's largest and oldest manufacturer of airguns, airgun ammunition and accessories, also sells a line of toy guns that shoot no projectiles, some of which look much like their real-life military counterparts. "Daisy has built a solid reputation over the years as a leader in the field of shooting safety," said Daisy President and Chief Executive Officer Raymond W. (Buddy) Pilgrim. "Because of recent incidents involving toy guns, we have concluded that to make available to our nation's youth toys that look like the real thing, without clearly marking them otherwise, is not in keeping with our leadership position."

Many law enforcement agencies and concerned citizens have voiced objection to the sale of military replica toy guns, which are currently popular with the youngsters and marketed by several major toy gun companies. The objection is based on the fact that, according to these groups, such guns can be mistaken for real firearms under certain circumstances. Although no such incidents have occurred with any Daisy toy product, Pilgrim explained, Daisy's commitment to safety precludes all other considerations.

Daisy began implementing its "de-replication" program in June of 1987, and the company plans to have accomplished a full conversion of its military toy gun product line, of which there are currently 30 different models, by January 1, 1988.

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Color transparency available upon request.

For more information contact: Gary Hecht
Daisy Manufacturing Company, Inc., Rogers, Arkansas 72756
AC (501) 636-1200 Telex 53-6478

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National Safety Council

May 4, 1988

Mr. Joe Scott
Daisy Manufacturing Co.
P.O. Box 220
Rogers, AR 72757

Dear Joe:

Congratulations. Daisy Manufacturing Company has been chosen to receive the 1988 Distinguished Service to Safety Award.

As we discussed, the award is to be presented during the National Safety Congress. This year's Congress will be held October 16-20 in Orlando, Florida. We do not have a date selected for the award presentation. As soon as we do, you will be notified.

On Wednesday, October 19th, a Congress presentation will be made on hunter safety. The presentation will also include a water safety demonstration. If you have any safety materials you would like to distribute, please give me a call at (312) 527-4800. The program will be held at the Justus Aquatic Center from 1-4:30 p.m.

Again, congratulations. I will contact you in the coming months to discuss the award presentation.

Sincerely,

Nina A. Moroz
Program Manager
Public Safety

NAM/ch

444 North Michigan Avenue
Chicago, Illinois 60611-3991
312-527-4800

A Nongovernmental
Not for profit
Public Service Organization

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Francis B. Looney
Farmingdale, NY

Immediate Past President
John J. Horton
San Francisco, CA

Jerald R. Vaughn
Executive Director

September 24, 1987

RECEIVED
SEP 30 1987
President's Office

Mr. Raymond Pilgrim
President
Daisy Manufacturing Company
Box 220
Rogers, AR 72757-0220

Dear Mr. Pilgrim:

IACP has followed with interest Daisy Manufacturing Company's "de-replication" program that identifies your company's toy guns with bold international orange markings.

We wish to express our strong support for Daisy's commitment to safety. Such an action certainly strengthens your company's reputation as a responsible leader in the field of firearm safety.

Because our association is pleased to share with our members our appreciation and recognition of such a commendable program, IACP will feature Daisy's "de-replication" program in an article in our October newsletter, the IACP News.

IACP has for some time strongly opposed the manufacture of toy guns that resemble their dangerous real-life counterparts. Let us hope that Daisy's wise action will challenge other toy gun manufacturers to effect similar changes in their company policies.

Sincerely,

Jerald R. Vaughn
Executive Director

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POLICE MANAGEMENT ASSOCIATION
1001 22nd Street N.W. Suite 200, Washington, D.C. 20037 (202) 833-1460

July 20, 1988

Mr. Robert W. Reid
Vice President for Marketing
Daisy Manufacturing Company
P.O. Box 220
Rogers, AR 72756

Dear Bob:

On behalf of the Police Management Association (PMA), its Board of Directors and staff, I thank you for taking time out of your busy schedule and honoring the attendees at our Fourth Annual International Conference as a panel member on "Handguns, Toy Guns and Plastic Guns."

The evaluations received from participants favorably praised your presentation as one which was both highly informative and relevant to the problem of gun proliferation currently facing police administrators. The knowledge and insight you bestowed upon each participant ensured a highly professional conference and contributed greatly to the overall learning received.

PMA is most fortunate to have your support on behalf of our efforts to disseminate timely and relevant research to the law enforcement community. It is through concerned executives, such as yourself, that the increasing problem of deadly weapons on the streets of America can be monitored and controlled.

I look forward to working with you again on matters of mutual concern. Please do not hesitate to contact me, or PMA directly if we can be of any assistance.

Sincerely,

Ed

Edward J. Spurlock
President

EJS/ms

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CONGRESSMAN MEL LEVINE

132 Cannon House Office Bldg., Washington, D.C. 20515
5120 W. Century Blvd., Suite 407, Los Angeles, Ca. 90045

For Release:

Contact:

STATEMENT OF CONGRESSMAN MEL LEVINE ON TOY GUNS
NOVEMBER 24, 1987

AS WE PREPARE TO EMBARK ON THE HOLIDAY BUYING SEASON, THIS SEEMED LIKE AN APPROPRIATE TIME TO HIGHLIGHT MY CONCERNS ABOUT THE SAFETY OF MANY OF THE TOY GUNS BEING SOLD IN OUR LOCAL TOY STORES. THESE REALISTIC GUNS POSE A VERY REAL THREAT TO THE HEALTH AND SAFETY OF THE YOUNG CHILDREN WHO PLAY WITH THEM.

TOY MANUFACTURERS ARE PRODUCING INCREASINGLY REALISTIC LOOKING TOY GUNS WHICH ARE FAR TOO FREQUENTLY BEING MISTAKEN FOR THE REAL THING. INCIDENTS IN WHICH YOUNGSTERS, BRANDISHING HIGHLY REALISTIC LOOKING TOY GUNS, ARE BEING SHOT AT, AND AT TIMES KILLED BY, LAW ENFORCEMENT OFFICIALS WHO FEEL THREATENED BY THE SITUATION ARE NOT UNCOMMON.

IN RANCHO CUCAMONGA, CALIFORNIA, A YOUNG MAN PLAYING WITH A LASER GUN WAS RECENTLY SHOT AND KILLED BY A DEPUTY SHERIFF. THE OFFICER MISTOOK THE LASER GUN FOR A REAL ONE. LATE THIS SUMMER, SHERIFF'S DEPUTIES IN LOS ANGELES COUNTY DREW THEIR GUNS ON A MOTHER AND HER THREE CHILDREN AFTER HER TEENAGE SON POINTED A TOY GUN AT A PLAIN CLOTHES OFFICER WHILE DRIVING ON THE FREEWAY. FORTUNATELY, THIS INCIDENT ENDED WITHOUT TRAGIC CONSEQUENCES. CLEARLY, ACTION IS NEEDED TO REMEDY THIS DANGEROUS SITUATION.

MANY STATE AND LOCAL GOVERNMENTS ARE ALREADY ADDRESSING THIS PROBLEM. IN LOS ANGELES COUNTY, AT THE REQUEST OF SUPERVISOR KENNETH HAHN, THE BOARD OF SUPERVISORS RECENTLY PASSED LEGISLATION MAKING IT ILLEGAL TO USE A TOY WEAPON IN A THREATENING OR ANGRY WAY. THE MARYLAND LEGISLATURE IS CONSIDERING LEGISLATION WHICH WOULD IMPOSE PENALTIES FOR THE USE OF A TOY GUN IN THE COMMISSION OF A CRIME AND REQUIRE ALL TOY GUNS TO BE MARKED WITH A BLAZE OF ORANGE. JUDGE ROBERT COLBY OF VIRGINIA HAS, AFTER BEING FACED WITH THREE TOY GUN CASES WITHIN ONE MONTH, BEGUN CAMPAIGNING FOR A LAW SIMILAR TO THAT PROPOSED IN MARYLAND.

WE ARE FACING A SERIOUS PROBLEM. REALISTIC TOY GUNS CANNOT NOT ALWAYS BE IDENTIFIED AS SUCH BY LAW ENFORCEMENT OFFICERS EVEN IN THE BEST OF CIRCUMSTANCES. IT IS UNFAIR AND UNREALISTIC TO EXPECT THEM ALWAYS TO MAKE THE CORRECT DISTINCTION WHEN THEY THINK THEY ARE STARING DOWN THE BARREL OF A REAL GUN. ALTHOUGH THESE TOY GUNS HAVE BEEN USED FOR CRIMINAL

-more-

ACTIVITIES, THE VICTIM OF MISTAKEN IDENTITY IS MOST LIKELY GOING TO BE SOMEONE WHO IS PLAYING WITH THE TOY WEAPON. AND THAT PERSON MOST LIKELY WILL BE A CHILD.

ONE PRODUCER OF TOY GUNS, DAISY MANUFACTURING OF ARKANSAS, HAS DECIDED TO BEGIN ADDING DISTINCTIVE MARKINGS TO THEIR TOY GUNS. I COMMEND THEM FOR THEIR ACTIONS, AND I HOPE OTHER TOY GUN MANUFACTURES WILL FOLLOW THEIR LEAD.

I ALSO WANT TO PRAISE THE RECENT ANNOUNCEMENT OF TOYS "R" US, THE NATION'S LARGEST TOY RETAILER, TO STOP SELLING REALISTIC TOY GUNS.

THE ACTIONS OF DAISY AND TOYS "R" US EXEMPLIFY CORPORATE RESPONSIBILITY. I URGE OTHER TOY MANUFACTURERS AND RETAILERS TO FOLLOW THEIR LEAD.

I WISH THAT FEDERAL INTERVENTION WERE NOT NECESSARY. I WOULD MUCH PREFER THAT THE MARKET POLICE ITSELF IN THIS MATTER. HOWEVER, LEGISLATION IS NEEDED TO PROD OTHER TOY MANUFACTURERS INTO TAKING ACTION TO PROTECT THE SAFETY OF THE CHILDREN WHO PLAY WITH THEIR PRODUCTS.

THAT IS WHY I HAVE INTRODUCED HR 3433. MY BILL REQUIRES MANUFACTURERS OF TOY FIREARMS, TOYS WHICH ARE INTENDED FOR USE BY CHILDREN AND ARE NOT DESIGNED TO FUNCTION AS REAL FIREARMS, TO DISTINCTIVELY MARK THE TOYS AS TOYS SO THAT THEY CAN EASILY BE DISTINGUISHED FROM THE REAL THING.

IF OTHERS ARE NOT WILLING TO VOLUNTARILY MARK THEIR PRODUCTS, MY LEGISLATION WOULD DIRECT THE CONSUMER PRODUCT SAFETY COMMISSION TO PROMULGATE REGULATIONS PRESCRIBING THE MANNER AND FORM IN WHICH TOY FIREARMS ARE TO BE MARKED. IT IS ESSENTIAL THAT, AT A MINIMUM, ALL TOY GUNS HAVE UNIFORM, DISTINCTIVE MARKINGS SO THAT WE CAN AVOID FURTHER LOSS OF INNOCENT LIVES.

POLICE ORGANIZATIONS ARE AWARE OF THIS NATIONAL PROBLEM. JERALD VAUGHN, EXECUTIVE DIRECTOR OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, TOLD THE NEW YORK TIMES "THE TOY IS TREATED EXACTLY AS THE REAL THING" BY POLICE OFFICERS IN CRITICAL SITUATIONS AND ADDED THAT "IT'S A POTENTIAL DISASTER WAITING TO HAPPEN." DISASTERS ARE NOT WAITING TO HAPPEN. THEY HAVE HAPPENED, AND THEY WILL CONTINUE UNLESS WE DO SOMETHING TO STOP THEM NOW.

# # # #

FUNRISE, INC. 8543 LANKERSHIM BLVD SUN VALLEY CAL 91352 TEL (818)501-3617 FAX (818)767-5441

FUNRISE

PRESS RELEASE

Date: August 26, 1987

From: Funrise, Inc
8543 Lankershim Blvd.
Sun Valley, Cal. 91352

Contact: Arnold Rubin
Tel Number (818) 501-3617

FUNRISE FOLLOWS DAISY-SAFETY MARKS TOY GUNS

Funrise, Inc., a California manufacturer of replica toy guns, announced that all of it's toy guns will be SAFETY MARKED to clearly distinguish the toy guns from real guns.

The barrels of all of Funrise's guns will be colored bright International Orange, as will the FUNRISE trademarks, logos and other markings on the toy guns.

Arnold Rubin, President of Funrise, said, "When I saw that Daisy was taking these same steps, I could think of no reason for not following its lead. Funrise will use these markings even if Daisy and Funrise are the only two companies that do it. However, I expect that all other companies selling toy guns will join in this effort to Safety Mark their toy guns."

In addition to toy guns, Funrise also manufactures and distributes a wide variety of toys, including scale models of horses and cars.

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Mr. FLORIO. Thank you very much, Mr. Reid. Mr. Wayne, we'd be happy to hear from you.

STATEMENT OF MICHAEL WAYNE

Mr. WAYNE. Chairman Florio, distinguished members of the subcommittee, ladies and gentlemen. My name is Michael Wayne and I am here today representing the John Wayne family, which consists of myself and my six brothers and sisters. Thank you for inviting me and giving me this opportunity to express my opinion on House of Representatives Bill No. 4732.

As Mr. Horowitz said, no one has been killed or even wounded by a toy gun, so it seems that the purpose of this bill is to prevent those tragic incidents that occur when children or immature adults point realistic toy guns at law enforcement officers, thus forcing the officers to make an immediate decision in the heat of a perceived life-threatening situation, the results of which have unfortunately been accidental shootings.

While I am 100 percent in support of the purpose of this bill, saving the lives of these children and others who misuse toy guns, I feel the scope of the toy gun products banned is far too broad. Despite the reference to pre-1898 guns in section 2, this bill seems to ban collector quality replicas of historic antique firearms. This is really stretching the word "toy" beyond its breaking point.

These non-firing antique replicas have great historical significance and sentimental interest to their collector owners. Most of the antique historic guns that are replicated, that are copied, are either in public museums or in private collections. Hence, these non-firing antique replicas are the only way collectors can acquire a part of history to display, enjoy and even handle in their own home without the danger of somebody being accidentally shot.

While I am a collector and thus concerned with the rights of all collectors, I am here today for a far more personal reason. Our family's licensing of the rights to make antique replicas of the guns John Wayne used in films is a major source of financial support for the John Wayne Cancer Clinic at UCLA. The money generated from the sales of these John Wayne replicas supports the important work of Dr. Donald Morton and his staff at the clinic in the treatment of cancer patients and in the cancer research programs to find a cure which will put an end to this dreaded disease.

I know we are all concerned with the threat to human life, not only from those who suffer diseases like cancer but also for those who suffer from accidents like accidental shooting. In my personal research with the manufacturers and distributors of non-firing antique replicas, I was not able to find even one reported or rumored case in which one of these antique replicas was involved in an accidental shooting or in the commission of a crime.

All these non-firing antique replicas are manufactured so that they cannot fire, nor can they readily be converted to fire. All of them are inspected by the Bureau of Alcohol, Tobacco and Firearms, which issues a letter confirming that these replicas do not fall under the category of firearms. These non-firing antique replicas commemorate historical persons, places and organizations and events. They are reproductions of guns that were designed and

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manufactured before 1898, and hence are very distinguishable from current toy guns which are patterned after modern firearms.

These non-firing antique replicas are designed to be collectibles. They are usually beautiful, heavily embellished with a combination of fine engraving and silver plating. They are treated, displayed and protected as works of fine art and history by their owners. On the other hand, today's popular toy guns are patterned after current civilian and military weapons. While they are quite realistic, they could not be considered works of art.

Non-firing replicas are expensive. They cost between $350 and $500 each, too much for an average child to afford, and they actually cost more than real guns that are sold today. Non-firing antique replicas are difficult to come by. They are not sold in toy stores or generally in retail stores. In fact, they are usually available only by mail order or in the secondary sales market from a fellow collector.

Frankly, the sales of these non-firing antique replicas is not part of the problem that H.R. 4732 will hopefully solve, but their sale does provide the John Wayne Cancer Clinic with much-needed funds to help save lives. It is very important, then, for the clinic and for the rights of collectors that these non-firing antique replicas be specifically and clearly exempted from H.R. 4732.

It is equally important that this Federal law supersedes any conflicting State or local laws so that everyone in the United States will have the same clearly-defined guidelines regarding the manufacture and sale of toy guns. Otherwise, there is really no reason for the Federal Government to get involved.

Again, on behalf of my brothers and sisters and the doctors and patients at the John Wayne Cancer Clinic, I want to express my thanks to the committee for allowing me to speak today and for your gracious attention.

Mr. FLORIO. Thank you very much, Mr. Wayne.

Mr. Reid, could you for the record introduce your colleague.

Mr. REID. Yes. My colleague is Ralph R. Beard. He is counsel for Daisy Manufacturing Company.

Mr. FLORIO. Thank you very much.

Let me express my appreciation to this panel for its presentation.

Mr. Thomson, can you give us some sense of the scope of the authority of the Toy Manufacturers of America? Overseas manufacturers who market in this country, are they members of your organization?

Mr. THOMSON. We have 240 members representative of manufacturers and importers. You have to keep in mind, Congressman, I think when you and I spoke informally on other issues, the point about most of our manufacturers who are called American manufacturers are also importers and own facilities or contract facilities overseas. So we represent about 90 percent of all the products that get on the retail shelves, so you can see we have a very broad issue.

Second, I am the president of the International Toy Committee, which is representative of 15 nations who are the major manufacturers and marketers of toys, including toy guns.

Mr. FLORIO. There is no question in your mind, is there, that if, for example, the Consumer Product Safety Commission did spell out regulations, that everyone would be required to in our market, the United States, to adhere to those standards?

Mr. THOMSON. Absolutely. Absolutely. I think it will happen voluntarily. I think that is the point that I make. I have already talked to every single country and they are all attuned to it, and those people who import the goods who are members of our association have already put those orders in to the Asian manufacturing——

Mr. FLORIO. I think we know already that we have toy products that are sold in this country that are not in conformity with existing regulations set by the Consumer Product Safety Commission on labeling and small parts regulations. There are those, and it is a fact of life, who will not comply with the law. There is a market niche for non-conforming toys, and someone out there will try to fill that niche.

Mr. THOMSON. Sure, and that is why we have supported so strongly the Customs and the Consumer Product Safety Commission's efforts with Operation Toyland because it is good for business, it is good for the consumer, good for the manufacturer, good for our association to weed out those people who just simply don't conform to the regulations, either voluntary or mandatory.

Mr. FLORIO. Let me ask a specific question to any of the witnesses with regard to Senator Dole's bill. You have heard, particularly, the law enforcement people express their apprehension about the sufficiency of the marking mechanisms that are called for. You heard them also advocate that there be a task force representative of everyone who is interested to come forward with marketing designs that they feel would make more sense in trying to protect people from the problems we are talking about. You, of course, are predominantly concerned about preemption, which is a very legitimate approach.

If we talked about some kind of a compromise proposal whereby you passed something like Senator Dole's bill, which immediately requires the markings that you advocate and has the effect of preempting States and localities; while at the same time putting into effect a task force with some reporting requirements to review and evaluate perhaps better-designed uniformity standards, with the expectation that within time constraints, those regulations would come forward. The Agency may evaluate them and say that they do make more sense, and then we would have better regulations that the industry would be required to live with, which would, of course, level out the marketing playing field. Those regulations would preempt the ability of localities to have differing legislation. Would that be something that might very well find support in industry?

Mr. THOMSON. Mr. Chairman, let me take the first crack at that. Maybe Bob will have some other thoughts on it.

Mr. FLORIO. Surely.

Mr. THOMSON. We thought we were doing that with the bill, with the Dole bill. It had the input of the retailers, the manufacturers, it had the input of the law enforcement agencies. The question is: is it enough? That is what it really comes down to. Speaking for the manufacturers, and I am sure Bob would like to speak too, we are open to any constructive suggestion that will make the product acceptable to the law enforcement people. I talked to a good number of police chiefs. I have, unfortunately, had to hear almost

all these incidents first hand from police detectives and chiefs around the country, and they had indicated to me that they thought the colorization, the Dole bill colorization would probably do the job.

They also suggested to me that the real problem is two issues, really: one, the brandishment of weapons at people, no matter whether it is a real weapon or a toy weapon. I mean the person has got a problem.

Mr. FLORIO. Mr. Thomson, the law enforcement officials accept the risks that go with their line, their profession, but there is a substantial difference between the orange plastic squirt gun that Mr. Horowitz had before and something like this (indicating). It may very well be only a second hesitation, but in the nature of their profession, law enforcement officials are put at, it seems to me, a much greater risk of making a decision, maybe a wrong decision, if they have got something like this (indicating) looking at them than if they had that plastic see-through squirt gun that is colored orange. So we are talking about gradations, and the gradations may very well be——

Mr. THOMSON. Mr. Chairman, I absolutely agree with you, and I am sure that these deranged people don't think they are going to take an orange squirt gun and go point it at a policeman. I don't think there is any question about that. They are going to take a real gun, in all probability.

Mr. FLORIO. Mr. Reid, was there something you wanted to respond?

Mr. REID. In answer to your question, the answer is yes.

Mr. FLORIO. Yes what?

Mr. REID. Yes, I think we would be amenable to that kind of a program.

Mr. FLORIO. Because I think that is the approach that I would be inclined to consider seriously as we go forward, and our committee will make some determinations. I think that does make some sense.

Mr. THOMSON. Mr. Chairman, as soon as I am finished here, I am going to go talk to the sergeant and I am going to give him my card. We are receptive to any good suggestions.

Mr. FLORIO. Fine. Mr. Wayne, I am sensitive to what you are talking about, and I have supreme confidence that there can be some statutory language to deal with clear definitions of what it is that this legislative approach is talking about. I don't think anybody intended to be dealing with the types of things that you are concerned about, and hopefully, as the legislative process goes forward, there can be a consensus on statutory exemption language to deal with what I suspect is a non-problem—the one that you are attempting to focus on.

We have a vote pending. I would like to express my appreciation to this panel and say that we look forward to working with all who are interested in this subject, and thank you very much for your participation.

The committee stands adjourned.

[Whereupon, at 12:06 p.m. the hearing was adjourned.]

[The following statements and letters were received for the record:]

AMERICAN MEDICAL ASSOCIATION
535 NORTH DEARBORN STREET • CHICAGO, ILLINOIS 60610 • PHONE (312) 645-5000 • TWX 910-221-0300

JAMES H. SAMMONS, M.D.
Executive Vice President

August 18, 1988

The Honorable James J. Florio
Chairman
Subcommittee on Commerce, Consumer
Protection, and Competitiveness
Committee on Energy and Commerce
U.S. House of Representatives
Room 151
House Office Building Annex No. 2
Washington, DC 20515

Re: Submission for August 11, 1988,
Subcommittee Hearing on Toy Guns

Dear Chairman Florio:

The American Medical Association requests that its position on the issue of toy guns be included in the record of the August 11, 1988, Subcommittee on Commerce, Consumer Protection, and Competitiveness hearing on the potential safety hazards posed by toy guns.

The AMA urges the banning of production, sale, and distribution of realistic toy guns. This position derives from physicians' deep concern over the tragic and seemingly avoidable number of fatalities and injuries that result from the use of firearms in general. Gun accidents have been cited as the fifth leading cause of death in young children, and most unintentional firearm deaths among children younger than 15 years of age have been traced to weapons used in play.

A ban on all realistic toy guns will take away the chance that children will confuse real guns with toy guns in the home and, thus, lower the risk of death or injury. A ban will also help eliminate the possibility that law enforcement officers will mistake a person with a toy gun for a criminal with a real weapon. Though this is a rare occurrence, it happens far too often if such a tragedy can be prevented.

The AMA commends the Subcommittee for its efforts to examine this important issue concerning the health and well being of children. The Association hopes that the Subcommittee's deliberations will result in legislation that will ban all realistic toy guns.

Sincerely,

James H. Sammons, M.D.

JHS/dlh

AMERICAN PUBLIC HEALTH ASSOCIATION
1015 Fifteenth Street, N.W., Washington, D.C. 20005 • (202) 789-5600

WILLIAM H. McBEATH, M.D., M.P.H., *Executive Director*

October 13, 1988

The Honorable James J. Florio
Chairman
Subcommittee on Commerce, Consumer
Protection, and Competitiveness
Committee on Energy and Commerce
US House of Representatives
Room 151
HOB Annex No. 2
Washington, D.C. 20515

Dear Chairman Florio:

The American Public Health Association requests that its position on the issue of toy guns be included in the record of the August 11, 1988 Subcommittee on Commerce and Consumer Protection hearing on the potential safety hazards posed by toy guns.

At its most recent Annual Meeting in New Orleans, APHA supported the enactment of a federal ban on the manufacture, importation, sale, and possession of plastic handguns. Our resolution noted the similarity of plastic handguns to toy guns, and the risks to children from both.

We are especially concerned that realistic looking toy guns will be confused with real guns and lead to more deaths of children who mistakenly identify real guns as toy guns. Further, a ban will eliminate the chance that law enforcement personnel will mistakenly identify children playing with toy guns as assailants in criminal situations. Therefore, APHA believes that plastic handguns and realistic looking toy guns can only lead to more unwanted morbidity and mortality and should be banned in the U.S.

APHA commends your efforts to examine the health and safety hazards posed by toy guns and urges the Subcommittee to adopt legislation to ban realistic toy guns.

Very truly yours,

William H. McBeath, MD, MPH
Executive Director

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OFFICE OF THE SHERIFF
ROBERT E. HERR, Sheriff
BERGEN COUNTY SHERIFF'S OFFICE
Hackensack, New Jersey 07601-7092
(201) 646-2222

Toy guns pose a great danger to the nation's law enforcement officers, as well as the communities which they have pledged to serve and protect.

A law enforcement officer, when required, must use quick judgement whether or not to fire his weapon. This includes the danger that he, his partner and/or innocent bystanders may be in. In evaluating this, he must also consider the weapons carried by the threatening party, whether or not the weapons are more sophisticated than his service weapon, if he is outnumbered, etc. It is difficult to must also consider the authenticity of the weapons in the possession of the threatening party.

The officer must act quickly to best benefit all parties involved, as well as the community. His split second judgement will be delayed by questioning the authenticity of the firearms. This delayed reaction can cost the officer his life, as well as the lives of others.

A law enforcement officer realizes the dangers involved in the routine day-to-day responsibilities of his job, and adding plastic or realistic firearms to these dangers greatly incapacitates the officer of performing his duties effectively.

Because an officer may find himself shooting a suspect, in trying to apprehend him, who was carrying a realistic looking weapon in a threatening manner,

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the officer's guilt may cost him his own life when he is presented in another similar situation. He will question himself as to whether or not he could have waited, whether or not hye could have asked the suspect again to drop his weapons, or if he could have taken other courses of action. This incident could be replayed many times, making him and his future performance not only inefficient, but also endangering to his partner, his department and the community which he pledged to serve and protect.

In being involved in such a situation, the entire department may be effected as well, and their performances may also be hindered.

Although it is not often that an officer finds himself in a situation where he feels he must draw his weapon and it is even less often where the officer feels that he must fire that revolver, it requires only one situation of firing that weapon and killing a suspect, to put an emotional drain on the officer. To discover that the suspect's weapon was only a realistic looking toy, must be more damaging to the officer, especially in situations where the suspect is killed.

This situation becomes more complex at night, where a shadow of a child may seem to be of an adult and the outline of a toy or replica gun could cause the officer to use deadly force.

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On the street, an officer has approximately two (2) seconds to determine whether or not he should use deadly force. The prosecutor, grand jury, superior court and the remainer of the criminal justice system has years to determine the validity or reasons of his actions.

He then must not only contend with his own guilt, but also the reactions of the department, the community, and especially, the victim's family.

This is probably the most tragic of events that could occur to the officer, who for as long as he could remember only wanted to be a police officer and serve his community.

Although officers and their partners attend anti-trauma sessions after they fire their weapons while on-duty, the effects of such sessions may not be as helpful to the officers after the incidence of firing upon a party who had been carrying a plastic or realistic weapon.

Toy guns should not be made in replica of real weapons, not only for the sake of the law enforcement officers, but also for general safety in the home. Since many people now have handguns at home, there have been more accidents in the home, with the children often believing that the guns were only toys.

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When toys guns are sold, they should bear very little resemblance to real weapons. Also, instructions should be included to show the children the differences between the toy and the real weapon.

Toy guns, whether plastic or metal, must be either banned or bear distinct identifying marks so that they are easily recognizable as toys and not mistaken for the real weapon. This will not only ease the burden on the law enforcement officers, but will also help save the lives of many innocent people.

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hia Hobby Industries of America
Serving the Craft, Model & Hobby Industries
319 East 54th Street
P.O. Box 348
Elmwood Park, NJ 07407
201 794-1133

August 3, 1988

The Honorable James J. Florio, Chairman
Subcommittee on Commerce, Consumer Protection
and Competitiveness
Committee on Energy and Commerce
U.S. House of Representatives
Room H2-151
House Office Building Annex No. 1
Washington, DC 20515

Dear Congressman Florio:

We are aware hearings are to be held on the 11th, to discuss the toy/model/replica gun issue and our association wishes to go on record as fully supporting Senator Dole's Amendment, part of Senate Bill S. 4445 (originally S. 1981), which has been passed unanimously out of the Senate as part of the Plastic Gun Bill.

Our association represents the vast majority of the businesses within the hobby industry and, obviously, any legislation discussing a total ban of items which are enjoyed by tens of thousands of hobbyists is of considerable concern to us.

We realize toys and non-firing models need to be distinctively marked. This requirement is clearly spelled out in the Dole amendment now attached to the Plastic Gun Bill.

We also strongly believe that Federal legislation is required because there are so many conflicting and confusing local ordinances now in force throughout the country. It is essential that a Federal standard be established for both the toy and hobby industry.

It has been brought to our attention that some law enforcement officials are concerned that criminals may paint their real guns to look like toy model guns. Based upon over ten years experience witnessed in Europe in both Italy and Spain (where federal requirements call for red plugs at the muzzle end of the toy gun), they have had no instances where criminals have put plugs in the muzzle end of their guns and painted them red as criminals desire to use guns to intimidate people, not to look like toys.

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We believe the Dole amendment properly addresses the problem and the solution is fair and just. The industry is already complying and marking toys and model guns as specified by the Senate Bill. We urge your Subcommittee to adopt the language passed unanimously by the Senate.*

I am enclosing a copy of the letter sent to Senator Dole confirming our position and the action taken by our Board of Directors on this subject at its October 1987 meeting.

Respectfully yours,

Walter W. Caddell
Executive Director Emeritus

/km
enclosure

Hobby Industry of America
319 East 54th Street
P.O. Box 348
Elmwood Park, NJ 07407
201 794-1133

October 23, 1987

Senator Robert Dole
Room 141, Hart Senate Office Building
Washington, D.C. 20510

Attention: S. Hoffhaus

Dear Senator Dole:

It is our understanding you have under consideration proposed legislation to require manufacturers and importers of toy and non-firing look-alike firearms to distinctively mark these pieces to be recognizable and distinguishable from real firearms.

The Board of Directors of the Hobby Industries of America, at its meeting last week, voted unanimously to support this proposal, particularly the language which we understand now exists.

We urge you and your staff to find an appropriate vehicle to secure early enactment of this legislation. We feel strongly that the legislation would do much to prevent possible misuse of these items which are enjoyed by so many hobbyists.

We are also concerned that absent of Federal legislation many localities would enact conflicting and confusing ordinances to the detriment of the industry. We wholeheartedly support your action and urge favorable consideration.

Respectfully yours,
HOBBY INDUSTRIES OF AMERICA

Frederic F. Polk, CAE
Executive Director

FFP:jg

PARRIS MANUFACTURING CO.
P. O. Box 338 • Savannah, TN 38372-0338 • Phone (901) 925-3918

August 5, 1988

"EXPRESS MAIL-
NEXT DAY SERVICE"

The Honorable James J. Florio
Chairman
Subcommittee on Commerce, Consumer
Protection and Competitiveness
U. S. House of Representatives
Room H2-151
House Office Building Annex No. 2
Washington, D. C. 20515

Attention: Richard Hubermann

Dear Congressman Florio:

I am aware of a Hearing concerning toy and replica gun legislation scheduled to take place August 11, 1988. Our interest stems from the fact that we are a major manufacturer of toy guns whose product base is strictly toy guns. Parris Manufacturing Company vehemently opposes any laws banning toy guns and the following outlines our viewpoint as to this all-important matter.

1. BAN WOULD IMPOSE LOSS OF JOBS FOR AMERICAN WORKERS: Parris Manufacturing Company is a 45 year old reputable American Manufacturer located in Savannah, Tennessee. We presently employ 150 workers with plans for expansion which should increase our employment to 200 workers. Our factory is an important Industry in our community and contributes much to its growth and welfare; and our workers are proud to make quality American products. A law banning toy guns would cause loss of present and future jobs for these American workers.

2. PARRIS TOY GUNS NEVER A THREAT: Parris produces quality wood and steel toy guns, many of which are scaled down replicas of guns used in American History. In our 45 years' existence, Parris has produced over 50 millon toy guns: and to the best of our knowledge, information and belief, there has never been a case where a Parris toy gun

Manufacturers of the World Famous TRAINERIFLE®

has been mistaken for a real weapon. This track record speaks for itself--45 years of children safely playing with Parris toy guns, re-enacting frontier and western days and patriotic war battles of old.

3. SAFETY IMPROVEMENTS: Despite the fact that Parris has a clean record, and most of our toy guns are much smaller in size as compared to their real counterparts, Parris has taken an extra step in safety by adding easy to identify blaze orange markings to our contemporary style toy guns. Please see Catalog and Advertisement enclosed.

4. DOLE BILL--THE SOLUTION: Although we oppose an outright ban, we support the Dole Bill.

A. The Dole Bill calls for colorization to identify toy guns as toys which will be an effective safety measure.

B. The Dole Bill further provides for regulations by the Secretary of Commerce, in cooperation with both the U. S. Treasury Bureau of Alcohol, Tobacco and Firearms and the Consumer Products Safety Commission.

C. The Dole Bill clearly defines imitation firearms as it deals with toys, replicas and air guns.

D. The Dole Bill also provides for tough sanctions for those who do not comply.

E. It would also preempt a rash of recently enacted conflicting state and local laws and would afford the manufacturer freedom to continue improving safety features of toy guns in a uniform manner.

5. LEVINE BILL #4732 NOT THE ANSWER:

A. This Bill calls for a total ban of all toy guns which is totally unjustified for federal action based on the limited number of incidents involving toy guns throughout the United States.

B. The Levine Bill does not clearly distinquish between toys, models and antiques. It is important for each of these different categories to be defined.

C. The Levine Bill has no preemptive clause, which is the major reason the Industry supports a bill on the Federal level. Out of the 20-30 laws recently enacted on the State and Local levels, with no two of them alike, it is impossible for a manufacturer to produce his product in a uniform manner. It is essential that the Federal Law supercede all State and Local Legislation.

6. CLOSING STATEMENTS: Parris Manufacturing Company is a well established company with its very founding caused by a willingness to serve our Country. At the start of World War II, when draftees by the thousands were being sent to Army-Navy Camps, there were no rifles available for training purposes. Parris, already experts in wood-work, was asked by the Defense Department to make huge quantities of Dummy Rifles for raw recruits until real rifles could be made available. More than 2 millon of these training rifles were made by the Company for the Army and Navy. For its patriotic effort, the company earned the coveted Army-Navy "E" Award as its contribution to the war effort. Please see yellow pamphlet enclosed herewith which gives a brief history of company.

Parris Manufacturing Company is rich in History as well as committed to the future to insure both a safe and quality product for the consumer.

With major problems facing our law enforcement agencies, such as Drug Trafficking and Gang Warfare, to name a couple, I find no logic in laws banning something as innocent as toy guns.

For the record, Parris Manufacturing Company and our Industry will Not stand by and allow a ban on a product which we have freely manufactured for our entire existence.

Parris Manufacturing Company urges this Committee and the House of Representatives to pass the Dole Bill.

Thank you for your time and consideration of our views on this urgent matter.

Sincerely,

PARRIS MANUFACTURING COMPANY

Craig A. Phillips

Craig A. Phillips
Executive Vice President

CAP/gpf

Enclosures: 1988 Catalog & Parade Leaflet
Trade Publication Advertisement
1988 Retail Pamphlet

These enclosures are on file with the Subcommittee

Gene Autry
Chairman of the Board

Jackie Autry
President

Joanne D. Hale
Vice President
Executive Director

Gene Autry
Western Heritage Museum

August 8, 1988

The Honorable James J. Florio, Chairman
Subcommittee on Commerce, Consumer Protection
and Competitiveness
Committee on Energy and Commerce
U.S. House of Representatives
Room H2-151
House Office Building Annex No. 2
Washington, D.C. 20515

Dear Congressman Florio:

I am writing to express my opposition to H.R. 4732 as currently drafted.

H.R. 4732 calls for a total ban of toy guns. My objections lie not with the purpose of this legislation, but rather with its scope. The definition of the devices which are covered by the bill encompasses not merely toy guns, but also non-firing historic replicas of antique firearms (those developed prior to 1898). The impact of this legislation on the many collectors of historically significant replicas in the country as well as upon museums such as the Gene Autry Western Heritage Museum would be significant.

The Gene Autry Western Heritage Museum will open later this year. It will be the largest and most extensive museum of its type in the world. Its primary purpose is to serve as a cultural and educational center for public enjoyment and for the appreciation of our Western heritage. One major way museums are able to generate revenue is by allowing the reproduction of some of the famous old guns held by the museums. The Gene Autry Western Heritage Museum will be sponsoring, through licensing agreements, the replication of some of our famous properties. For that reason, you can understand my concern about the pending legislation. Not only are serious collectors' rights to be denied, but a means of financial support for tax exempt organizations and institutions would be affected.

5858 Sunset Boulevard Post Office Box 710 Los Angeles, California 90078-0710 213-460-5635

The original historic pieces of these fine reproductions are either in public museums or in the homes of private collectors. They are not accessible to individuals interested in American history who desire a memento of the past. The non-firing collector replicas of these historic firearms are, for the most part, highly ornate art pieces with exquisite engraving and frequently are nickel or gold plated. They are exhibited in dens and living rooms on expensive wall mounts and serve as reminders of the past for a great number of collectors. They are usually sold in a price range between $350 and $600.

I am certainly aware that there have been some sad and unfortunate incidents involving the improper use of toy guns. Please understand that a collector's item such as I am talking about has never been involved in such an incident. I hope you agree that these collector non-firing reproductions are unrelated to the improper use of toy firearms. Their purpose, their cost and their enjoyment by responsible adults is clearly and solely related to an interest in our historic past.

It is very important to our museum that replicas of firearms which were developed prior to 1898 be exempted from the provisions of H.R. 4732. The Senate unanimously passed the Dole Bill, S. 1981, which was an amendment to the Plastic Gun Bill. This Bill properly addresses this situation and completely exempts non-firing replica antiques designed and produced prior to 1898. The Dole amendment was well thought out and calls for special markings for toys and models. It corrects the problem while not destroying an American industry. I urge your Committee to accept the Dole language. It makes sense and sets a Federal standard for the country.

I respectfully request that my comments be entered into the record.

Thank you for your attention to this matter.

Most sincerely,

Gene Autry

GA:st